



Secure
Ocean
Service

STATEMENT OF
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ON

INTERNATIONAL MARITIME SECURITY II:
Law Enforcement, Passenger Security and Incident
Investigation on Cruise Ships

BEFORE THE


U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING
THREATS AND INTERNATIONAL RELATIONS

ON

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Good morning Chairmen and members of the Committee. My name is Ronald Gorsline; I am the owner of Secure Ocean Service, LLC. Thank you for the opportunity to present testimony as an expert witness on the subject of maritime security as it relates to the cruise industry.

SOS is a small company providing internal compliance auditing service for security programs in the cruise industry. Our job is to act as an honest broker while conducting internal audits and identifying program strengths and weaknesses reporting to clients and making recommendations to correct program shortfalls as shown in our findings.

Today, I am testifying about security practices, training, qualifications and jurisdiction of foreign flag vessels as incidents may occur onboard those vessels. My testimony is not intended to point fingers as to cause or add to speculation on a company's conduct, but rather to clarify process and procedures as required by law.

1. What United States and International laws govern passenger security onboard Cruise Lines? **Response:**

- 1) 33 CFR Part 101
- 2) 33 CFR Part 104
- 3) International Ship & Port Facility Security (ISPS) Code parts A & B

2. Who is the official responsible for enforcing such laws onboard a cruise ship?

Response: The Master is overall responsible for the vessel and is as shown below by regulation both US and international.

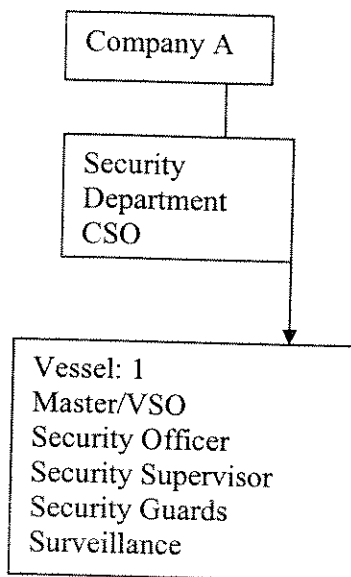
§ 104.205 Master. (US)

(a) Nothing in this part is intended to permit the Master to be constrained by the Company, the vessel owner or operator, or any other person, from taking or executing any decision which, in the professional judgment of the Master, is necessary to maintain the safety and security of the vessel. This includes denial of access to persons—except those identified as duly authorized by the cognizant government authority—or their effects, and refusal to load cargo, including containers or other closed cargo transport units.

(b) If, in the professional judgment of the Master, a conflict between any safety and security requirements applicable to the vessel arises during its operations, the Master may give precedence to measures intended to maintain the safety of the vessel, and take such temporary security measures as seem best under all circumstances.

ISPS part A, section 4.10 (Intl.): At all times the Master of a ship has the ultimate responsibility for the safety and security of the ship. Even at security level 3 a Master may seek clarification or amendment of instructions issued by those responding to a security incident, or threat thereof, if there are reasons to believe that compliance with any instruction may imperil the safety of the ship.

The over all structure reflects the following for security:



3. What type of security measures, both trained personnel and equipment are onboard cruise lines to ensure passenger safety? **Response:**

The response to this is classified SSI in accordance with 49 CFR 1520 and ISPS code part A, section 9.8.1: If the officers duly authorized by a Contracting Government have clear grounds to believe that the ship is not in compliance with the requirements of chapter XI-2 or part A of this Code, and the only means to verify or rectify the non-compliance is to review the relevant requirements of the ship security plan, limited access to the specific sections of the plan relating to the noncompliance is exceptionally allowed, but only with the consent of the Contracting Government of, or the master of, the ship concerned. Nevertheless, the provisions in the plan relating to section 9.4 subsections .2, .4, .5, .7, .15, .17 and .18 of this Part of the Code are considered as confidential information, and cannot be subject to inspection unless otherwise agreed by the Contracting Governments concerned.

Vessels in general are outfitted with various types of security equipment and technology to include:

- Metal detectors, walk through and hand wand
- x-ray machines for handbags, and Luggage
- video surveillance
- Alarms and weather deck doors with open indicator sensors
- Swipe ID card system for passengers/ship access and room key, Each passenger is issued an access card that has a down loaded picture to confirm facial identification.

The passengers' pass is a computer generated plastic swipe card. It shows the following:

Front	Rear
Picture of ship	Magnetic stripe
Name of ship	Company name and logo
Name of bearer	Condition of use
Assembly station	Bar code for cabin lock
Disembarkation date	Name of bearer
Ship Phone Number	Cabin number
	Account details

For modern vessels this is the normal mode. For older vessels operating who do not have card activated room keys they would issue keys for their cabins with cards for Identification purposes.

- Heat sensors for fire sprinkler systems,
- Cipher locks for controlled access to restricted areas,
- Lighting to cover the vessel 360 degrees in port and underway.
- Ship Security Alert System (SSAS)

Personnel Training requirements: **33 CFR 104 (US)**

§104.210 Company Security Officer (CSO)

a) General.

- 1) Owner/Operator must designate a CSO in writing.
- 2) If more than one CSO, each CSO must have designated ships for which responsible.
- 3) CSO may perform other duties including those of the VSO, provided he/she is able to perform required of CSO.
- 4) The CSO may delegate duties, but the CSO remains responsible for the performance of those duties.

b) Qualifications.

CSO must have general knowledge through training or equivalent experience in the following:

- 1) Security administration and organization of company's vessels;
- 2) Vessel, facility and port operations relevant to that industry;

- 3) Vessel and facility security measures, requirements at the different MARSEC Levels;
- 4) Emergency preparedness and response and contingency planning;
- 5) Security equipment and systems;
- 6) Methods of conducting audits, and techniques for inspecting, controlling, and monitoring techniques; **and**
- 7) Techniques for security training and education, including security measures/procedures.

c) Responsibilities

In addition to duties specified elsewhere, the CSO for each vessel must:

- 1) Keep vessel appraised of potential threats;
- 2) Ensure a Vessel Security Assessment is carried out;
- 3) Ensure a Vessel Security Plan (VSP) is developed, approved and maintained;
- 4) Ensure the VSP is modified when necessary;
- 5) Ensure the vessel's security activities are audited;
- 6) Arrange for Coast Guard inspections under 46 CFR Part 2;
- 7) Ensure timely correction of problems identified by audits;
- 8) Enhance awareness and vigilance within the ship-owners organization;
- 9) Ensure personnel receive adequate security training;
- 10) Ensure communication/cooperation with vessel, facility, and/or port;
- 11) Ensure consistency between security requirements and safety requirements;
- 12) Ensure that vessel specific information is included when several similar types vessel plans are submitted;
- 13) Ensure compliance with Alternative Security Plan (ASP) or equivalent, if appropriate, **and**
- 14) Ensure security measures give consideration and/or convenience to vessels crew.

§104.215 Vessel Security Officer (VSO)

a) General

- 1) A VSO may perform other duties within an Owner/Operator's organization, provided he/she is able.
- 2) For manned vessels the VSO must be the Master or a member of the crew.
- 3) For unmanned vessels the VSO must be a company employee and may serve as VSO for more than one unmanned vessel. If serving as VSO for more than one unmanned vessel, list of vessels for which responsible must be in the VSP.
- 4) The VSO of any unmanned barge and the VSO of any interfacing towing vessel must

coordinate/implement security measures for interfacing period.

5) VSP may assign security duties to other vessel personnel; however VSO responsible.

b) Qualifications

VSO must have knowledge through training or equivalent job experience in the following:

- 1) Those items listed in 104.210 (b) (1) and (b) (2) of this part;
- 2) Vessel layout;
- 3) The VSP and related procedures including scenario-based response training;
- 4) Crowd management and control techniques;
- 5) Operation of security equipment and systems; **and**
- 6) Testing, calibration, and maintenance of security equipment and systems.

c) Responsibilities

In addition to the duties and responsibilities mentioned elsewhere, the VSO must perform the following:

- 1) Regularly inspect the vessel to ensure security measures are maintained;
- 2) Ensure maintenance and supervision of implementation of the VSP and amendments;
- 3) Ensure coordination of handling cargo, vessel stores and bunkers in compliance with rule;
- 4) Propose modifications to the VSP to the CSO;
- 5) Ensure any problems during audits/inspections are reported to the CSO and implement;
- 6) Ensure security awareness and vigilance onboard the vessel;
- 7) Ensure adequate training for the vessel personnel;
- 8) Ensure the reporting and recording of all security incidents;
- 9) Ensure the coordination/implementation of the VSP with the CSO and Facility Security Officer (FSO) when applicable;
- 10) Ensure security equipment is properly operated, tested, calibrated, and maintained; **and**
- 11) Ensure consistency between security requirements and proper treatment of crew.

§104.220 Company or Vessel Personnel with Security Duties

These persons must have knowledge, through training or equivalent experience in the following areas:

- a) Knowledge of current security threats and patterns;
- b) Recognition and detection of dangerous substances and devices;
- c) Recognition of characteristics/behavioral patterns of those likely to threaten security;
- d) Techniques used to circumvent security measures;

- e) Crowd management and control techniques;
- f) Security-related communications;
- g) Knowledge of emergency procedures and contingency plans;
- h) Operation of security equipment and systems;
- i) Testing, calibration and maintenance of security systems while at sea;
- j) Inspection, control and monitoring techniques;
- k) Relevant provisions of the security plan;
- l) Methods of physical screening of persons/personal effects/baggage/cargo/vessels stores;
- and**
- m) The meaning and consequential requirements of different MARSEC Levels.

§104.225 Security Training for all Other Vessel Personnel.

All other personnel including contractors must have knowledge of, through training, or equivalent job experience in the following, as appropriate:



- a) Relevant provisions of the VSP;
- b) The consequential requirements of the different MARSEC Levels;
- c) Recognition and detection of dangerous substances and devices;
- d) Recognition and characteristics/behavioral patterns of those likely to threaten security;
- and**
- e) Techniques used to circumvent security measures.

ISPS Code part B section 13 (Intl law):

Security Personnel Training

13.1 The Company Security Officer (CSO) and appropriate shore based Company personnel, and the Ship Security Officer (SSO), should have knowledge of, and receive training, in some or all of the following, as appropriate:

- .1 security administration;
- .2 relevant international conventions, codes and recommendations;
- .3 relevant Government legislation and regulations;
- .4 responsibilities and functions of other security organizations;
- .5 methodology of ship security assessment;


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- .6 methods of ship security surveys and inspections;
 - .7 ship and port operations and conditions;
 - .8 ship and port facility security measures;
 - .9 emergency preparedness and response and contingency planning;
 - .10 instruction techniques for security training and education, including security measures and procedures;
 - .11 handling sensitive security related information and security related communications;
 - .12 knowledge of current security threats and patterns;
 - .13 recognition and detection of weapons, dangerous substances and devices;
 - .14 recognition, on a non discriminatory basis, of characteristics and behavioral patterns of persons who are likely to threaten security;
 - .15 techniques used to circumvent security measures;
 - .16 security equipment and systems and their operational limitations;
 - .17 methods of conducting audits, inspection, control and monitoring;
 - .18 methods of physical searches and non-intrusive inspections;
 - .19 security drills and exercises, including drills and exercises with port facilities; and
 - .20 assessment of security drills and exercises.
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13.2 In addition the SSO should have adequate knowledge of, and receive training, in some or all of the following, as appropriate:

- .1 the layout of the ship;
- .2 the ship security plan and related procedures (including scenario-based training on how to respond);
- .3 crowd management and control techniques;
- .4 operations of security equipment and systems; and
- .5 testing, calibration and whilst at sea maintenance of security equipment and systems.

13.3 Shipboard personnel having specific security duties should have sufficient knowledge and ability to perform their assigned duties, including, as appropriate:

- .1 knowledge of current security threats and patterns;
- .2 recognition and detection of weapons, dangerous substances and devices;
- .3 recognition of characteristics and behavioral patterns of persons who are likely to



threaten security;

- .4 techniques used to circumvent security measures;
- .5 crowd management and control techniques;
- .6 security related communications;
- .7 knowledge of the emergency procedures and contingency plans;
- .8 operations of security equipment and systems;
- .9 testing, calibration and whilst at sea maintenance of security equipment and systems;
- .10 inspection, control, and monitoring techniques; and
- .11 methods of physical searches of persons, personal effects, baggage, cargo, and ship's stores.

13.4 All other shipboard personnel should have sufficient knowledge of and be familiar with relevant provisions of the SSP, including:

- .1 The meaning and the consequential requirements of the different security levels;
- .2 knowledge of the emergency procedures and contingency plans;
- .3 recognition and detection of weapons, dangerous substances and devices;
- .4 recognition, on a non discriminatory basis, of characteristics and behavioral patterns of persons who are likely to threaten security; and
- .5 techniques used to circumvent security measures.

In addition to the published regulatory security requirements companies will conduct training to cover law enforcement issues such as:

- a. Gangway procedures
- b. Ship Patrolling Procedures
- c. Report writing techniques
- d. Incident scene preservation
- e. Bomb search procedures
- f. Missing persons search procedures
- g. Use of force
- h. Principles of investigation, protection of the crime scene and the collection of evidence
- i. Crime on the High Seas

4. If a crime occurs onboard a cruise ship who investigates the crime and what are their training and qualifications?

Response: This varies company to company, and by vessel size and type of crime committed. **Crimes Committed Within the Special Maritime Jurisdiction of the United States are investigated by the FBI and are defined as follows:**

- **Arson 18 USC 81,**
- **Assault 18 USC 113**
- **Maiming 18 USC 114**
- **Murder 18 USC 1111**
- **Homicide 18 USC 1112**
- **Kidnapping 18 USC 1201**
- **Sexual assault, rape 18 USC 2241**
- **Robbery and burglary 18 USC 2111**

The "special maritime and territorial jurisdiction of the United States" has been expanded to include any place outside the jurisdiction of any nation when the offense is committed by or against a national of the United States (see 18 U.S.C. § 7(7)). Among the offenses within the special maritime and territorial jurisdiction of the United States are the crimes of murder, manslaughter, maiming, kidnapping, rape, assault, and robbery. Pursuant to 18 U.S.C. § 7(1) there is also jurisdiction over such offenses when they are committed on the high seas or any other waters within the admiralty and maritime jurisdiction of the United States that is out of the jurisdiction of any particular state. See USAM 9-20.000 et seq. (Maritime, Territorial and Indian Jurisdiction).

The Federal Bureau of Investigation (FBI) is the lead agency in enforcing the 18 USC provisions outlined above. In recognition of this fact, in 1999 the ICCL membership issued the following public statement implementing a policy of "zero tolerance for crime:"

"This policy establishes a single industry standard that requires allegations of onboard crime be reported to the appropriate law enforcement authorities which, for vessels calling on U.S. ports or crime involving U.S. citizens, would include the Federal Bureau of Investigation.

The companies, and the industry as a whole, have zero tolerance for crimes committed on our vessels. If crimes do occur, the appropriate law enforcement authorities will be called in to investigate and prosecute to the fullest extent of the law. The cruise industry continues to cooperate with the authorities to ensure that perpetrators of crime are brought to justice." (J Michael Crye testimony 13 December 2005)

As previously testified to by the President of the ICCL J Michael Crye on 13 December 2005, agreements are in place with the Membership of the ICCL and the Flag States addressing communications with the lead agencies to investigate all cases once reported. In addition to the above the possession and or trafficking of illegal drugs and narcotics is included as an action and investigated by Customs & Boarder Protection agency (CBP).

While onboard the vessel the Vessel Security Officer (VSO)/Ship Security Officer (SSO) will refer to the incident report procedure to collect evidence, interview witnesses and assemble the report and package all material to be turned over to the investigating authority upon arrival in the next port. Additionally, the Company Security Officer (CSO) will be notified of the incident and give direction to the VSO, and coordinate actions with the Master/VSO and the appropriate agency. In the event forensic evidence is to be collected of a scientific nature then the ships doctor will more likely be pressed into service to administer such things as a rape kit to confirm a complaint.

Personnel training and capability will vary company to company. Some companies have their own academy to train their personnel. Where other companies subcontract that training to training contractors or maritime academies to qualify their personnel in investigation and evidence collection procedures. All training is recorded and entered into a company data base to show when training occurred for personnel in the company. The incident plan shows by positions responsibilities during a given type of incident and who is responsible for the assembly of the incident report.

In comparison a police to population ratio in a major city of the US is 1-2 per 1,000 where onboard a cruise ship it is 5-7 security personnel per 1,000. Additionally, the response is more rapid usually less than 5 minutes.

5. How are jurisdictional issues handled onboard foreign flagged vessels?


Response: Foreign flagged vessels are Flag States. A Flag State is a contracting government who signed up to the IMO and adheres to the ISPS code in addition to their own laws. Flag States also have their own Recognized Security Organization (RSO). The RSO is in most cases is a Class Society designated to be the verification arm of the Flag State. The RSO will ensure the ship flagged has a ship security plan that meets the ISPS code. The RSO issues the international ship security certificates (ISSC) also for the flag state. The vessel will have an IMO number of registration and fly the flag of that nation. Examples are the Bahamas, Panama and Liberia. The foreign flag ships avoid US domestic maritime policy and taxes.

The US isolates domestic policy from international through the Jones act.

- Domestic policy requires build at home, crew at home, and own at home to carry cargo between ports in the US.


However, various nations, such as the United States, can and regularly do assert jurisdiction over Cruise Ships under international law based upon a number of well-established factors. Congress can enact criminal laws that apply extraterritorially if any of the five criteria below are met:

- 1) There is "territorial" jurisdiction. If a ship enters or an act occurs within the territory of a particular country, then that country's laws apply. This is true for any international traveler. Legally, a ship is also considered to be part of the territory of the flag state where it is registered, and thus the flag state's laws also apply on board that ship, in addition to the laws of the country where the ship is physically located.
- 2) Under the "national" theory, the country where any alleged criminal perpetrator resides has jurisdiction over a matter involving the perpetrator's conduct.

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- 3) The nation with custody of any alleged perpetrator for certain types of crimes can claim jurisdiction under the "universality" principle. Piracy, for example, has been identified as such a criminal act and every country has jurisdiction to take enforcement action against persons in that country's territory for acts of piracy that occur on the high seas.
 - 4) Under the "passive personality" doctrine, the nation where the victim resides can exercise jurisdiction over the matter, regardless of where it occurs.
 - 5) Any country whose national interests are affected by an incident can assert "protective" jurisdiction.

*(ICCL Testimony: International Maritime Security
December 13, 2005)*

I hope that I have answered your questions regarding what international and national laws pertaining to security on cruise ships and jurisdictional issues onboard foreign flagged vessels traveling outside of US territorial waters.



Ships move from port to port and changes in jurisdictions are fluid crossing international boundaries. As shown above governments and agencies exercise law enforcement authority over each ship based upon its location. Criminal acts involving U.S. citizens are reported to the appropriate law enforcement authority which may include the FBI. Other incidents involving security are reported to the flag state, and to any reporting requirements applicable in the US such as the Coast Guard incident reports.